

**LOUISVILLE METRO AIR POLLUTION CONTROL DISTRICT  
PRELIMINARY REGULATORY IMPACT ASSESSMENT**

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**REGULATION 2.02 VERSION 7**  
*Air Pollution Regulation Requirements and Exemptions*

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**FEBRUARY 20, 2013**

**Purpose of the Draft Proposed Action:**

On July 24, 2012, the District issued an advance Notice of Proposed Rulemaking (NPR) describing proposed revisions to the District's current Part 2 permitting regulations, including Regulation 2.02, *Air Pollution Regulation Requirements and Exemptions*.

As explained in the NPR, the District has been exploring a variety of approaches that could be used to streamline its construction and operating permit programs. In general, the draft amendments to Part 2 propose changing the way the District regulates smaller emitting sources in several categories, clarifying existing text, and removing redundant or outdated provisions.

If adopted by the Board, Regulation 2.02 Version 7 will be submitted to the U.S. Environmental Protection Agency for inclusion in the State Implementation Plan.

**Scope of the Draft Proposed Amendments:**

The District implements the federal Clean Air Act in Louisville by delegation from the U. S. Environmental Protection Agency (EPA) and in partnership with the Kentucky Division for Air Quality through a grant of concurrent jurisdiction.<sup>1</sup>

As part of its delegation, the District operates a sophisticated network of air monitoring sites and modeling systems for particles, pollutant gases, and meteorology. The District is the permitting authority for all federally required permitting programs, including the Title V operating permit program and the New Source Review (NSR) and Prevention of Significant Deterioration (PSD) pre-construction permitting programs, and minor source NSR. The District also implements the stringent local Strategic Toxic Air Reduction (STAR) program for controlling air toxics from major sources, and the federal Risk Management Plan (RMP) program for facilities with certain types of toxic chemicals on site. In combination, these programs regulate emissions of air pollutants, including nitrogen oxides, carbon monoxide, particulate matter, volatile organic

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<sup>1</sup> KRS 224.20-130.

compounds (VOCs), sulfur dioxide, asbestos and other air toxics, from stationary sources to ensure that Louisville Metro makes steady progress toward achieving and maintaining federal and local air quality standards.

Almost 600 stationary sources in Louisville Metro are authorized to operate as minor sources under Regulation 2.03. These sources do not have the potential to exceed Title V emissions thresholds. Minor source construction permits are issued for a period of one year. No application is necessary to convert a construction permit into an operating permit. Minor source operating permits are issued for a period of 5 years. There is no formal renewal application for minor sources. Time spent to issue a minor source permit is difficult to estimate in a meaningful way due to the variability of these small sources. Annual emissions from these sources are historically very small. Some equipment, such as small natural gas boilers, simply cannot exceed an applicable requirement. Others have been exempt in the past under Regulation 2.02, *Air Pollution Regulation Requirements and Exemptions*, but are currently permitted due to conflicts with other District regulations.

The District is proposing to amend Regulation 2.02 to:

- Clearly identify those sources that are exempt from the requirements to obtain a construction or operating permit from the District, including
  - Stationary sources that are not subject to an applicable requirement in 40 CFR Parts 60, 61, or 63 and have the potential to emit less than 5 tons per year of a regulated air pollutant and 1,000 pounds per year of a hazardous air pollutant.
  - Sources operating an insignificant activity.
- Allow the temporary construction, modification, or operation of an affected source with District approval.
- Register certain stationary sources in lieu of full permitting, including:
  - Stationary sources that are subject to an applicable requirement in 40 CFR Parts 60, 61 or 63 and have a potential to emit less than 5 tons per year of a regulated air pollutant and 1,000 pounds per year of a hazardous air pollutant.
  - Stationary sources that, with no controls, cannot exceed an applicable performance standard or the Clean Air Act.
  - Stationary sources that accept a limit of 5 tons per year of a regulated air pollutant and 1,000 pounds per year of a hazardous air pollutant.
  - Stationary sources that accept a limit of 5 tons per year of a regulated air pollutant and operate a surface coating process in accordance with Section 5 of the proposed regulation.
- Establish simplified recordkeeping and reporting requirements for small sources that conduct surface coating operations in accordance with Section 5 of the proposed regulation.

By the District's tally, these revisions could potentially apply to over 450 stationary sources that are currently permitted by the District as minor stationary sources. Some of these sources may, however, retain their minor source permits for administrative convenience, operational flexibility, or economic expansion. Importantly, while the proposed amendments do not require construction permits for exempt or registered sources, these sources must still comply with all

applicable requirements of the District's regulations and the Clean Air Act, including 40 CFR Part 63 subparts HHHHHH or XXXXXX. As a transition measure, the District will identify eligible exempt stationary sources and notify them in writing that the source is exempt and not subject to the registration requirements in this regulation or permit requirements in Regulation 2.03. New stationary sources that meet the eligibility requirements and comply with the proposed regulation may immediately begin construction and operation.

#### **Estimated Costs and Savings:**

For FY 2013, the District is proposing to assess fees for stationary sources operating pursuant to an application shield under Regulation 2.17 or minor stationary sources authorized to continue operating in compliance with the latest District permit from the date the most recent permit expired through the end of FY 2013. With the exception of these fees, all permit fees will be paid prior to the issuance of a permit. Program fees, emissions fees, and other fees, including the back fees described above, will be billed as usual and subject to the District's current payment deadlines and procedures. Sources may apply, if necessary, for a payment plan.

Beginning in 2014, an existing stationary source permitted pursuant to Regulation 2.03 will not be required to pay an application fee if later authorized as an exempt stationary source pursuant to Regulation 2.02. The permit fee for the initial issuance of a Registration will be adjusted on a prorated basis to account for the unexpired term of any operating permit previously issued pursuant to Regulation 2.03. Potential costs and savings for these sources are further explained in the NPR and in the Preliminary Regulatory Impact Assessment for Regulations 2.03 and 2.08.

#### **Feasibility of All Alternatives:**

Although the District considered not amending Regulation 2.02, the proposed changes are necessary to implement the District's Part 2 permit improvements. These improvements streamline the District's permitting process and are intended to reduce permitting burdens on small stationary sources while enhancing the District's ability to meet its delegated and local regulatory obligations.

#### **Comparison with Any Minimum or Uniform Standards:**

The proposed regulation is consistent with the District's permitting regulations for minor source, FEDOOP and Title V sources and the Clean Air Act.

#### **Report on Public Outreach Efforts:**

This draft proposed Regulation 2.02 Version 7 was proposed for informal external review on December 10, 2012 and formal public comment on February 20, 2013, and sent to: all members of the Air Pollution Control Board; all persons who have requested to be notified of proposed changes to any District regulations; EPA Region 4; and the Kentucky Division for Air Quality.

The informal public comment period ended on January 24, 2013. The public will have an opportunity to comment during the 30-day public comment period; at a meeting of the

appropriate committee of the Air Pollution Control Board; and at a public hearing prior to consideration by the full Board.